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CONCORD, N.H.

Mr. James J. Barry, Commissioner
Department of Public Welfare
State House Annex

Re: Adoption Procedures

Dear Mr. Barry:

In reply to your question of this date regarding present procedures of the Department in relation to children in your care and custody placed for adoption, I advise that in my opinion this procedure is not a violation of R.L. c. 345.

This chapter sets up the procedure for the petitions in the probate court in relation to adoption and sets forth the requirements for consent, and in section 1-a, as added by Laws 1947, chapter 48, section 1, your Department shall be notified of every petition for adoption and make an investigation and report to be submitted to the court within sixty days. If your report accompanies the petition, the requirements of this section would be fulfilled.

Section 4 as added by Laws of 1943, chapter 127, section 5 provides that the court shall make an order granting temporary custody of the child for a period of one year except that in its discretion it may reduce this time as it may see fit. It is not a violation of the statute for the petition to be entered after the child has been with the prospective adoptive parents for a year, and immediate adoption requested. However, I must point out that this is discretionary with the judge.

In view of some of the problems encountered in earlier adoptions, it would seem that your following this procedure is warranted and would be a matter for the court to consider when exercising its discretion.

Very truly yours,

Richard C. Duncan
Assistant Attorney General

RCD:RM